

COMMITTEE AMENDMENT FORM

DATE: 7/15/08

COMMITTEE CITY UTILITIES PAGE NUM. (S) 3

ORDINANCE I. D. #08-O-0562 SECTION (S) 4 g(2)

RESOLUTION I. D. #08-R- PARA.

AMENDS THE LEGISLATION BY INSERTING ADDITIONAL LANGUAGE TO
g(2) AS FOLLOWS:

(2) IMPRISONMENT FOR A TERM NOT EXCEEDING FIVE DAYS
AND/OR PROBATION WHICH SHALL INCLUDE COMMUNITY
SERVICE.

AMENDMENT DONE BY COUNCIL STAFF 7/15/08

AN ORDINANCE BY

08-O-0562

COUNCILMEMBER ANNE FAUVER

AS SUBSTITUTED AND AMENDED BY CITY UTILITIES COMMITTEE

AMENDING CHAPTER 138, ARTICLE I, SECTION 138-13 OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, SO AS TO REQUIRE THAT ANY PERSON ISSUED A CITATION UNDER SAID SECTION MUST APPEAR IN MUNICIPAL COURT TO RESPOND TO THE CITATION, TO CLARIFY THE METHOD FOR THE IMPOSITION OF FINES; TO CLARIFY THE AMOUNT OF TIME THAT A PERSON FOUND TO HAVE VIOLATED SAID SECTION MAY BE SENTENCED TO JAIL, TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, Section 138-13 (f) of the City of Atlanta Code of Ordinances currently provides that persons issued citations under said section may pay the fine prior to the assigned court date in the amount of \$100.00 per violation; and

WHEREAS, Section 138-13 (f) of the City of Atlanta Code of Ordinances currently provides that persons issued citations under said section are not required to appear in court until such persons have been cited for violations on at least three separate occasions; and

WHEREAS, Section 138-13 (g) authorizes the imposition of a fine in an amount not to exceed \$1,000.00 per violation; and

WHEREAS, eliminating the option of the person receiving a citation under Section 138-13 to pay a fine in the amount of \$100.00 prior to the scheduled court appearance and thereby avoid having to make the scheduled court appearance will make enforcement of this section more effective by permitting the court to impose fines in excess of \$100.00 where appropriate; and

WHEREAS, there is a potential conflict between Section 138-13 (e) which provides that a minimum sentence of three days in jail is authorized, whereas in Section 138-13 (g), it is provided that imprisonment may not exceed five days.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:

Section 1: That Section 138-13 (d) which currently reads as follows:

(d) *Removal.* Any signs found upon any public property, not in compliance with this section, may be removed by the city. The person(s) responsible for causing the unlawful sign to be placed on any public property may be held responsible for the cost of removal. These persons

shall include, but are not limited to, any individuals or businesses whose advertisement, message or information appears on or is contained in any sign or notice unlawfully placed on public property

Is hereby amended as follows (with new language in bold):

(d) *Removal.* Any signs found upon any public property, not in compliance with this section, may be removed by the city. The person(s) responsible for causing the unlawful sign to be placed on any public property may be held responsible for the cost of removal **and for the penalties set forth below**. These persons shall include, but are not limited to, any individuals or businesses whose advertisement, message or information appears on or is contained in any sign or notice unlawfully placed on public property.

Section 2: That Section 138-13 (e) which currently reads as follows:

(e) *Special event signage.* Any special event signs found upon any public property may be removed by the city. The person(s) responsible for causing the unlawful special event sign to be on public property may be held responsible for the cost of removal. In addition, the person(s) responsible for causing the unlawful special event sign to be on public property shall be subject to a minimum of three days in jail. These persons shall include, but are not limited to, any individuals or business whose special event appears on or is contained in any special event sign or notice unlawfully placed on public property and any individual responsible for authorizing, directing, or paying persons who unlawfully place special event signs on public property.

Is hereby amended as follows (with deleted language signified by strikeout):

(e) *Special event signage.* Any special event signs found upon any public property may be removed by the city. The person(s) responsible for causing the unlawful special event sign to be on public property may be held responsible for the cost of removal. ~~In addition, the person(s) responsible for causing the unlawful special event sign to be on public property shall be subject to a minimum of three days in jail.~~ These persons shall include, but are not limited to, any individuals or business whose special event appears on or is contained in any special event sign or notice unlawfully placed on public property and any individual responsible for authorizing, directing, or paying persons who unlawfully place special event signs on public property.

Section 3: That Section 138-13 (f) which currently reads as follows:

(f) *Citations.* Any person violating this section shall receive a citation. The citation shall state the date, location, and brief description of the

violation. The citation penalty may be paid prior to the assigned court date, in the amount of \$100.00 per violation to cover the removal of the unlawfully placed sign. Payment may be made as directed by the citation. Upon a third, and subsequent, violation, the person cited must appear in court.

Is hereby amended as follows (with new language in bold and with deleted language signified by strikeout):

(f) *Citations.* Any person violating this section shall receive a citation **to appear in court to face the penalties set forth below.** The citation shall state the date, location, and brief description of the violation. ~~The citation penalty may be paid prior to the assigned court date, in the amount of \$100.00 per violation to cover the removal of the unlawfully placed sign. Payment may be made as directed by the citation. Upon a third, and subsequent, violation, the person cited must appear in court.~~

Section 4: That Section 138-13 (g) which currently reads as follows:

(g) *Penalties.* Any person violating this section shall be subject to one or more of the following penalties:

- (1) A fine not to exceed \$1,000.00 upon appearance before the judge of the municipal court, for each unlawfully placed sign or special event sign;
- (2) Imprisonment for a term not exceeding five days.

Fines that remain unpaid after 60 days will automatically trigger a separate violation, resulting in the responsible person(s) being subject to the penalties provided in this chapter, in addition to the original fines and/or jail time.

Is hereby amended as follows (with new language in bold):

(g) *Penalties.* Any person violating this section shall be subject to one or more of the following penalties:

- (1) A fine not to exceed \$1,000.00 **per sign per day of violation** upon appearance before the judge of the municipal court, for each unlawfully placed sign or special event sign;
- (2) Imprisonment for a term not exceeding five days.

Fines that remain unpaid after 60 days will automatically trigger a separate violation, resulting in the responsible person(s) being subject to

the penalties provided in this chapter **for each day of continued violation through failure to pay such fines**, in addition to the original fines and/or jail time.

Section 5: That all existing ordinances or parts of ordinances in conflict with this ordinance shall be waived for the purposes of this Ordinance only, and only to the extent of the conflict.

AN ORDINANCE BY

08-O-0562

COUNCILMEMBER ANNE FAUVER

AS AMENDED BY CITY UTILITIES COMMITTEE

**AMENDING THE CODE OF ORDINANCES OF THE CITY
OF ATLANTA BY DELETING A SENTENCE IN
SUBPARAGRAPH (f); AND FOR OTHER PURPOSES.**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That Sec. 138-13. Affixing signs within right-of-way be amended by deleting the language as indicated.

Sec. 138-13. Affixing signs within right-of-way.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) "Affix" shall mean the act of tacking, nailing, posting, gluing, painting, stapling, marking or writing upon the surface of any structure or directing, authorizing or paying another to do such act.

(2) "Public property" within the public right-of-way shall mean the area lying within the dedicated or prescriptive easement of any street or road located within the city, whether improved or not, including sidewalks, ditches, drains, the tree lawn areas between detached sidewalks and streets, roadway medians, parkways, bridges, utility poles and boxes, street signs and sign poles.

(3) "Sign" shall mean any material containing printed or written matter in words, symbols, pictures, or any combination thereof, including, but not limited to flyers, handbills, pennants, posters, and streamers.

(4) "Special event sign" shall mean any temporary sign which shall advertise or promote any meeting, event, gathering, function, entertainment or other activity scheduled for a particular date or series of consecutive days.

(b) Signage prohibited. Except as provided in this section, it shall be unlawful to post or affix signs on public property within the public right-of-way.

(c) Exceptions. Nothing in this section shall apply to the installation of the following:

(1) Metal plaques or plates commemorating a historical, cultural or artistic event, location or personality;

(2) Signage identifying licensed franchisees of the city or indicating the presence of workers of permitted utilities and their facilities or equipment within or immediately adjacent to the right-of-way;

(3) Signage identifying or directing vehicular or pedestrian traffic to or from property immediately adjacent to the signage when displayed on structures under the ownership or control of the property owner or lessee;

(4) Signage providing public transportation information;

(5) Signage providing direction to governmental facilities, hospitals or houses of worship;

- (6) Signage affixed pursuant to permits issued by governmental entities having authority to do so;
- (7) Signage used to provide for the safety of individuals using the public right-of-way or immediately adjacent property;
- (8) Flags, banners, bunting, signs, displays or other forms of decoration which are displayed in conformance with and permitted by section 138-60; or
- (9) Commercial advertisements which are displayed in and on bus shelters in conformance with the requirements of O.C.G.A. § 32-6-51.
- (d) Removal. Any signs found upon any public property, not in compliance with this section, may be removed by the city. The person(s) responsible for causing the unlawful sign to be placed on any public property may be held responsible for the cost of removal. These persons shall include, but are not limited to, any individuals or businesses whose advertisement, message or information appears on or is contained in any sign or notice unlawfully placed on public property.
- (e) Special event signage. Any special event signs found upon any public property may be removed by the city. The person(s) responsible for causing the unlawful special event sign to be on public property may be held responsible for the cost of removal. In addition, the person(s) responsible for causing the unlawful special event sign to be on public property shall be subject to a minimum of three days in jail. These persons shall include, but are not limited to, any individuals or business whose special event appears on or is contained in any special event sign or notice unlawfully placed on public property and any individual responsible for authorizing, directing, or paying persons who unlawfully place special event signs on public property.
- (f) Citations. Any person violating this section shall receive a citation. The citation shall state the date, location, and brief description of the violation. ~~The citation penalty may be paid prior to the assigned court date, in the amount of \$100.00 per violation to cover the removal of the unlawfully placed sign.~~ Payment may be made as directed by the citation. Upon a third, and subsequent, violation, the person cited must appear in court.
- (g) Penalties. Any person violating this section shall be subject to one or more of the following penalties:
 - (1) A fine not to exceed \$1,000.00 upon appearance before the judge of the municipal court, for each unlawfully placed sign or special event sign;
 - (2) Imprisonment for a term not exceeding five days.Fines that remain unpaid after 60 days will automatically trigger a separate violation, resulting in the responsible person(s) being subject to the penalties provided in this chapter, in addition to the original fines and/or jail time.
- (h) Enforcement. Any person empowered by the City of Atlanta to issue citations may enforce the provisions of this section.

SECTION 2: That all ordinances and parts of ordinances in conflict herewith be and are hereby waived in this instance only.

AN ORDINANCE BY

COUNCILMEMBER ANNE FAUVER 

**AMENDING THE CODE OF ORDINANCES OF THE CITY
OF ATLANTA BY DELETING SUBPARAGRAPH (f) AND
RENUMBERING THE SUBSEQUENT PARAGRAPHS;
AND FOR OTHER PURPOSES.**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That Sec. 138-13. Affixing signs within right-of-way be amended by deleting the language as indicated.

Sec. 138-13. Affixing signs within right-of-way.

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) "Affix" shall mean the act of tacking, nailing, posting, gluing, painting, stapling, marking or writing upon the surface of any structure or directing, authorizing or paying another to do such act.

(2) "Public property" within the public right-of-way shall mean the area lying within the dedicated or prescriptive easement of any street or road located within the city, whether improved or not, including sidewalks, ditches, drains, the tree lawn areas between detached sidewalks and streets, roadway medians, parkways, bridges, utility poles and boxes, street signs and sign poles.

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(4) "Special event sign" shall mean any temporary sign which shall advertise or promote any meeting, event, gathering, function, entertainment or other activity scheduled for a particular date or series of consecutive days.

(b) Signage prohibited. Except as provided in this section, it shall be unlawful to post or affix signs on public property within the public right-of-way.

(c) Exceptions. Nothing in this section shall apply to the installation of the following:

(1) Metal plaques or plates commemorating a historical, cultural or artistic event, location or personality;

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(7) Signage used to provide for the safety of individuals using the public right-of-way or immediately adjacent property;

(8) Flags, banners, bunting, signs, displays or other forms of decoration which are displayed in conformance with and permitted by section 138-60; or

(9) Commercial advertisements which are displayed in and on bus shelters in conformance with the requirements of O.C.G.A. § 32-6-51.

(d) Removal. Any signs found upon any public property, not in compliance with this section, may be removed by the city. The person(s) responsible for causing the unlawful sign to be placed on any public property may be held responsible for the cost of removal. These persons shall include, but are not limited to, any individuals or businesses whose advertisement, message or information appears on or is contained in any sign or notice unlawfully placed on public property.

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(1) A fine not to exceed \$1,000.00 upon appearance before the judge of the municipal court, for each unlawfully placed sign or special event sign;

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Fines that remain unpaid after 60 days will automatically trigger a separate violation, resulting in the responsible person(s) being subject to the penalties provided in this chapter, in addition to the original fines and/or jail time.

(g) Enforcement. Any person empowered by the City of Atlanta to issue citations may enforce the provisions of this section.

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